

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RASHAN JOHNSON,	§
	§
Defendant Below-	§ No. 92, 2010
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID Nos. 0307016906 and
Plaintiff Below-	§ 0711010012
Appellee.	§

Submitted: June 4, 2010

Decided: June 24, 2010

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 24th day of June 2010, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) As a result of new criminal charges, the defendant-appellant, Rashan Johnson (Johnson), was found to have violated the terms of his probationary sentence associated with two prior convictions. The Superior Court sentenced Johnson on the VOP a total period of five years at Level V incarceration to be suspended after serving four years. This is Johnson's appeal from his VOP sentence.

(2) Johnson's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Johnson's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Johnson's attorney informed him of the provisions of Rule 26(c) and provided Johnson with a copy of the motion to withdraw and the accompanying brief. Johnson also was informed of his right to supplement his attorney's presentation. Johnson has not raised any issues for this Court's consideration. The State has responded to the position taken by Johnson's counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.*

* *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

(4) This Court has reviewed the record carefully and has concluded that Johnson's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Johnson's counsel has made a conscientious effort to examine the record and the law and has properly determined that Johnson could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice